IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. 222 of 2006.

Decided on : August 23, 2006.

Dila Ram & ors. **…..Appellants.**

VERSUS

State of H.P. & anr. **…..Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?[1]

For the Appellants : **Mr. S.S.Mittal, Sr. Advocate with Mr. Dinesh Bhanot, Advocate.**

For the Respondents : **Mr. Ashok Chaudhary, Additional Advocate General, for respondent No.1.**

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. Suit land measures about 128 Bighas and grass grows on this land, which is owned by the State of Himachal Pradesh, i.e. respondent No.1, herein. Through the Tehsildar of the area, respondent No.1 used to auction the grass growing on this land every year. Father of the appellants- plaintiffs had been making highest bid for purchase of the grass growing on the land for several years. The plaintiffs- appellants, filed a suit claiming that they were tenants on the suit land and by operation of the provisions of H.P. Tenancy and Land Reforms Act, they had acquired its ownership rights, but the

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Whether the reporters of the local papers may be allowed to see the Judgment?

respondents- defendants, without any right, title or interest in the land, wanted to dispossess them.

3. Suit was contested by the respondents- defendants/ State of Himachal Pradesh and it was stated that the appellants or their predecessor had never been inducted as tenant on the suit land and that in fact, for a few years at a stretch, he had been purchasing the grass growing on the suit land, at public auction, by making highest bid

4. The trial court after framing the issues and recording the evidence of the parties, granted a decree of permanent prohibitory injunction in favour of the appellants, holding that they were in possession and that they cannot be dispossessed except by due process of law.

5. Appeal was carried against the decree of the trial court by the State of Himachal Pradesh to the court of District Judge. Accepting the appeal, the District Judge has said that since the appellants' predecessor had never been inducted as tenant, but had been purchasing the grass growing on the suit land at public auction, though continuously for a number of years, he had not acquired any title and, therefore, the plaintiffs were not entitled to the relief of injunction against the true owners.

6. I have heard the learned counsel for the parties and perused the record, particularly the entries in the revenue papers. The first appellate court appears to have not committed any illegality in holding that the appellants' predecessor had been purchasing the grass growing on the suit land for a few years, at public auction, and

therefore, what the predecessor of the plaintiffs was given, was the right to cut the grass growing on the suit land, during those particular years and no interest, much-less a tenancy had been created in his favour.

7. The learned counsel representing the appellants says that since the possession is with the appellants, they are entitled to injunction to the effect that they should not be dispossessed except by due process of law. I do not find any merit in the contention. The record, particularly the entries in the latest revenue papers, shows that appellants are not in possession.

8. From the above discussion it is clear that no substantial question of law is involved. Hence the appeal is dismissed.

August 23, 2006. **(Surjit Singh)**
(Hem) **Judge.**